

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 24-cr-20051-JEM

UNITED STATES OF AMERICA

Plaintiff,

vs.

ALFRED LENORIS DAVIS,

Defendant.

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**DEFENDANT'S SECOND MOTION IN LIMINE
RELATING TO THE GOVERNMENT'S NOTICE OF INTENT TO
ADMIT EVIDENCE PURSUANT TO FRE 902(11) AND 803(6), FILED ON MAY 8, 2024**

The Defendant, Alfred Lenoris Davis, by and through undersigned counsel, respectfully files this Motion in Limine relating to the Government's Notice of Intent to Admit Evidence Pursuant to FRE 902(11) and 803(6) [DE 40] and states the following:

1. On April 30, 2024, the Court held a calendar call in this matter and set the trial for May 14, 2024.
2. The witness and exhibit lists were to be provided to the Court prior to the calendar call.
3. On April 26, 2024, the government sent their proposed witness and exhibit list to the undersigned.
4. On May 2, 2024, a few days after the calendar call, the Government provided additional documents in the discovery that include 2018 lease documents for Unit 903.

5. On May 8, 2024, the Government filed its Notice of intent to introduce business records pursuant to Fed. R. Evid. 902(11) and 803(6), listing the documents produced regarding Unit 903 and the lease documents that date back to 2018.
6. The government filed their exhibit list today, May 10, 2024, which lists the documents relating to Unit 903.
7. The documents which the Government now seeks to introduce relating to Unit 903 correspond to a lease from October 1, 2018, until September 30, 2019, approval of a resident dated October 19, 2018, a copy of an old Driver's license and a background check application for Rod Lesperance dated October 18, 2018.
8. The records that the Government's notice dated May 8, 2024, seeks to introduce are irrelevant, prejudicial and the probative value of the evidence is substantially outweighed by the danger of unfair prejudice. Fed. R. Evid. 403.
9. Furthermore, at no point did the Government file a 404(b) notice regarding any of the documents relating to the Unit 903. The Government's initial 404(b) notice filed on April 23, 2024, makes no mention of the documents relating to Unit 903. The notice sought to introduce evidence the evidence that the Defendant previously lived at 400 Sunny Isles under the alias of Rod Lesperance and in the discussion states that " The jury will also have sufficient evidence to find that the Defendant is a convicted felon, through his record of conviction, and that he was previously living at Unit 903, through both testimony and the Defendant's counterfeit driver's license" [DE 27 at 5]. In its 404(b) notice filed on April 23, 2024, the government put the Defense on notice that the property Manager would testify that he knew Mr. Davis as Rod, and that the driver's license provided in 2023 had the address of 400 Sunny Isles, Unit 903. There

was absolutely no mention of any lease documents, a copy of a driver's license provided in 2019, background check from 2018 or any paperwork from 2018.

10. The government has failed to provide the required written 404(b) notice relating to the 2018 documents, has failed to provide reasonable notice of intent to introduce these documents to the defense and has failed to articulate in the notice the permitted purpose for which they intend to offer the evidence and the reasoning that supports that evidence, as required by FRE 404(b)(3). The documents were not even provided until after the calendar call, and after the Government's initial 404(b) notice was filed. The government is now trying to make the 2018 documents the main feature of this trial.

11. It is unclear how the Government intends to introduce evidence of an uncharged crime from 2018, and what probative value these documents would have aside to show propensity that if the Defendant allegedly committed a crime in 2018, he must have done so in 2023, the date alleged in the sole count of the Indictment in this case.

WHEREFORE, the Defendant respectfully requests that his Court grant this Motion in Limine and exclude any evidence relating to the 2018 documents and hold the Government to the timely 404(b) notice requirement.

CERTIFICATE OF SERVICE

I HEREBY certify that on May 10, 2024, undersigned counsel electronically filed foregoing document with the Clerk of Courts using CM/ECF which will send notification of such filing to all counsel of record.

Respectfully submitted,

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By: _____
Zeljka Bozanic
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